

NO. 22790

IN THE SUPREME COURT OF THE STATE OF HAWAII

ELIZABETH J. HOLMES, Plaintiff-Appellant

vs.

HOOPER HOLMES, INC., a Hawai'i corporation; MICHAEL
UPCHURCH, individually and in his official capacity as
Branch Manager for HOOPER HOLMES, INC.; JOHN DOES 1-10;
JANE DOES 1-10; DOE BUSINESS ENTITIES 1-10; DOE
CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; DOE
UNINCORPORATED ORGANIZATIONS 1-10; DOE GOVERNMENTAL
ENTITIES 1-10, Defendants-Appellees

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 97-1294-04)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Ramil, JJ., and
Intermediate Court of Appeals Judge Lim,
in place of Acoba, J., recused)

Upon careful review of the record and the briefs
submitted by the parties and having given due consideration to
the arguments advanced and the issues raised by the parties, we
resolve the plaintiff-appellant Elizabeth J. Holmes's points of
error as follows:

(1) Holmes claims that the circuit court committed
error with respect to rulings regarding jury instructions and the
special verdict form. We hold that any error regarding the
substance of the jury instructions and special verdict form was
harmless, inasmuch as the record reflects that the jury neither
reached any of the issues implicating any of the challenged
instructions nor any of the challenged portions of the special
verdict form. See Craft v. Peebles, 78 Hawai'i 287 (1995);

Stratis v. Pacific Ins. Co., Ltd., 7 Haw. App. 1, 739 P.2d 251 (1987).

(2) Holmes argues that the circuit court erred in granting summary judgment against her and in favor of the defendants with respect to her claim of negligent infliction of emotional distress. We hold that her claim was barred by the Workers' Compensation Law, inasmuch as the defendants were Holmes's employer and fellow employee. See Hawai'i Revised Statutes § 386-5 (1993); Marshall v. University of Hawaii, 9 Haw. App. 21, 821 P.2d 937 (1991); see also Iddings v. Mee-Lee, 82 Hawai'i 1, 919 P.2d 263 (1996).

(3) Holmes argues that the circuit court erred in denying her motion to compel discovery. We hold that the circuit court did not abuse its discretion, inasmuch as Holmes's motion to compel discovery was untimely. See Acoba v. General Tire, Inc., 92 Hawai'i 1, 986 P.2d 288 (1999). Therefore,

IT IS HEREBY ORDERED that the judgment of the first circuit court, filed on August 19, 1999, from which the appeal is taken, is affirmed.

DATED: Honolulu, Hawai'i, July 25, 2000.

On the briefs:

Elizabeth J. Fujiwara and
Joyce M. Brown for the
plaintiff-appellee
Elizabeth J. Holmes

Lynne T. Toyofuku, Jared H.
Jossem, and J. Denice
Von Gnechten (of Jossem
& Toyofuku) for
the defendants-appellees
Hooper Holmes, Inc. and
Michael Upchurch